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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARLOS JESUS JORDAN LOPEZ,

Defendant.

CASE NO. 1:23-MJ-00111-EPG

STIPULATION REGARDING EXCLUDABLE
TIME PERIODS UNDER SPEEDY TRIAL ACT;
FINDINGS AND ORDER

DATE: October 27, 2023
TIME: 2:00 p.m.
COURT: Hon. Barbara A. McAuliffe

This case is set for a preliminary hearing on October 27, 2023. The parties agree and stipulate to continue the preliminary hearing until December 8, 2023 at 2:00 p.m. before the duty magistrate. Defense counsel has continued to be engaged in discussions and further investigation and needs additional time to conclude that process. Additionally, the parties are engaged in discussions and investigation of issues related to a possible pre-indictment resolution as well as consultation with or seeking consultation with experts. There are complex factual and legal issues the parties are exploring, and believe that additional time to conclude that process will be productive in moving the case forward. Discovery necessary for this process, including multimedia, are being prepared and will be provided to the defense within the next week.

If the case is continued, this Court should designate a new date for the preliminary hearing. *United States v. Lewis*, 611 F.3d 1172, 1176 (9th Cir. 2010) (noting any pretrial continuance must be “specifically limited in time”).

STIPULATION

Plaintiff United States of America, by and through its counsel of record, and defendant, by and through defendant's counsel of record, hereby stipulate as follows:

1. By previous order, this matter was set for preliminary hearing on October 27, 2023.

2. By this stipulation, defendant now moves to continue the preliminary hearing until **December 1, 2023, at 2:00 p.m.** and to exclude time between October 27, 2023, and December 1, 2023.

3. The parties agree and stipulate, and request that the Court find the following:

a) The parties are discussing and conducting further investigation into pre-indictment matters, and need additional time to conclude.

b) Counsel for defendant desires additional time to consult with her client, conduct further investigation, and further discuss charges with the government.

c) Counsel for the defendant and the Government are engaged in resolution discussions and believe that additional time is necessary to conclude those discussions.

d) Counsel for defendant believes that failure to grant the above-requested continuance would deny her the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

e) The government does not object to the continuance.

f) Pursuant to F.R.Cr.P. 5.1(c) and (d), a preliminary hearing must be held "no later than 14 days after initial appearance if the defendant is in custody," unless the defendant consents and there is a "showing of good cause". Here, the defendant consents and there is good cause as set forth herein.

g) Based on the above-stated findings, the ends of justice served by continuing the case as requested outweigh the interest of the public and the defendant in an indictment or trial within the original dates prescribed by the Speedy Trial Act.

h) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., within which an indictment must be filed and within which a trial must commence, the time period of October 27, 2023 to December 1, 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) because it results from a continuance granted by the Court at

defendant's request on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy indictment/trial.

4. Nothing in this stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excludable from the period within which an indictment must be filed and a trial must commence.

IT IS SO STIPULATED.

Dated: October 26, 2023

PHILLIP A. TALBERT
United States Attorney

/s/ DENNIS L LEWIS
DENNIS L LEWIS
Assistant United States Attorney

Dated: October 26, 2023

/s/ JESSICA GUTIERREZ
JESSICA GUTIERREZ
Counsel for Defendant
CARLOS JESUS JORDAN
LOPEZ

ORDER

For good cause shown, IT IS SO ORDERED that the preliminary hearing is continued from October 27, 2023, to **December 1, 2024, at 2:00 p.m. before Magistrate Judge Barbara A. McAuliffe**. Time is excluded pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv).

IT IS SO ORDERED.

Dated: October 27, 2023

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE